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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,678	12/21/2005	Andrew Cordani	GFRED 3.3-008	1368
530 7590 05/14/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER NOORI, MAX H	
			ART UNIT 2855	PAPER NUMBER
			MAIL DATE 05/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/561,678

Applicant(s)

CORDANI, ANDREW

Examiner

Max Noori

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/21/05</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive, it is very general. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Larsson.

Regarding claims 1, and 17, Larsson discloses a method and apparatus for non-destructive determination of properties of an object with features of the claimed invention including an elongate member (the timber 11), a vibration measuring means and a computer processing means, in which the resonance and/or vibration measuring means records resonance and/or vibration of the elongate member caused by properties of the material from the recorded resonance and/or vibration measurement (see, for example claim 1.

Regarding claim 2, Larsson's teaches various data comparison (see, for example claim 15).

Regarding claim 3, a computer is inherently capable of sequential recording and comparison

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Regarding claim 4, the processing is to provide a physical characteristic of the material.

Regarding claims 5-7, the comparison is made against the data stores in the computer.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson as applied to claims above, and further in view of Adinolfi.

Regarding claims 8-10, 15, 19, due to his different intended use, Larsson does not elaborate of the fort of his signal. However, provide the signal in a specific format for a desired intended use is notoriously known. For example, Adinolfi discloses an electronic percussion system using vibration transducer and showing the signal in midi format (col. 7, lines 36-42). Therefore, it would have been obvious for a skilled artisan at the time of the invention to modify Larsson to provide the signal in any desirable format such as midi in order to have a musical format for more versatile data manipulation.

Regarding claims 11, and 20, Adinolfi shows drumsticks.

Regarding claims 12-14, Adinolfi shows piezoelectric sensor means (see for example claim 8).

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6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson as applied to claims above, in view of Adinolfi, and further in view of EP 0 444 919-A1.

Regarding claim 16 Larsson in view of Adinolfi does not teach location of the drumstick, however, EP 0 444 919 A1, teaches a three dimensional baton sensor teaching provision to identify the location of the drumstick in xyz coordinate. Therefor, it would have been obvious for a skilled artisan at the time of the invention to modify Larsson/Adinolfi device to add means to provide the exact location of the drumsticks in order to obtain a more complete and accurate handle on the transducer parameters.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (571) 272-2185. The examiner can normally be reached on Tuesday-Friday from 8:00 AM to 6:00 P.M.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2800. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The central fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHN

Wednesday, May 02, 2007

  
MAX NOORI  
PRIMARY EXAMINER